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Third Meeting
New York, 27 November-1 December 1995

REPORT OF THE THIRD MEETING OF STATES PARTIES

Prepared by the Secretariat

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I. INTRODUCTION

A. Convening of the Meeting

1. The third Meeting 1/ of States Parties to the United Nations Convention on the Law of the Sea was convened from 27 November to 1 December 1995 in New York in accordance with article 319, paragraph 2 (e), of the Convention and the decision taken at the second Meeting. 2/ Pursuant to that decision, and in accordance with the rules of procedure 3/ adopted by the Meeting of States Parties, invitations to participate in the Meeting were addressed by the Secretary-General of the United Nations to all States Parties to the Convention. Invitations to participate as observers were addressed to other States, to international organizations referred to in annex IX to the Convention and to entities referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention, to observers at the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, as well as to the specialized agencies of the United Nations, the International Atomic Energy Agency (IAEA) and several non-governmental organizations.

B. Opening of the Meeting

2. The Meeting was held to consider the draft initial budget of the International Tribunal for the Law of the Sea (SPLOS/WP.1) and the draft protocol on the privileges and immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.16/Add.3). 4/

3. The Meeting was opened by the President, Mr. Satya N. Nandan (Fiji).

C. Attendance

4. The following attendance was recorded at the Meeting: (a) 47 States Parties; (b) 47 States observers; (c) 1 international organization referred to in annex IX to the Convention; (d) 2 observers from specialized agencies and United Nations bodies; (e) 3 intergovernmental organizations; and (f) 3 non-governmental organizations.

D. Documentation

5. The principal documents before the Meeting were:

- Agenda for the Meeting of States Parties (SPLOS/1/Rev.1);
- Rules of procedure for the Meetings of States Parties (SPLOS/2/Rev.3);
- Report of the second Meeting of States Parties (SPLOS/4 and Corr.1);
- Draft initial budget of the International Tribunal for the Law of the Sea, prepared by the Secretariat (SPLOS/WP.1);

- Election of the members of the Commission on the Limits of the Continental Shelf: information note by the Secretariat (SPLOS/CRP.2);

- Informal proposals for the organization of work: note by the President (SPLOS/CRP.3);

- Report of the Preparatory Commission, under paragraph 10 of resolution I, containing recommendations for submission to the Meeting of States Parties to be convened in accordance with annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/152/(vols. I-IV)).

II. CONDUCT OF BUSINESS AND DECISIONS TAKEN

A. Organization of work

6. The President referred participants to the agenda and stated that in addition to a conference room paper (SPLOS/CRP.1) in which he had made proposals regarding the organization of work, he had issued a further conference room paper (SPLOS/CRP.3) specifically relating to the work programme of the current session. A note prepared by the Secretariat on the election of the members of the Commission on the Limits of the Continental Shelf (SPLOS/CRP.2) was also available. The President proposed that the Meeting deal with three items, namely, the draft protocol on the privileges and immunities of the Tribunal, the draft initial budget of the Tribunal and the election of the members of the Commission on the Limits of the Continental Shelf. The President also drew delegations' attention to the report of the Preparatory Commission and its recommendations, which had earlier been published by the Secretariat in four volumes and distributed to all delegations.

7. The Meeting accepted the President's proposal that negotiations on the draft initial budget, the draft protocol on the privileges and immunities of the Tribunal, and the election of the members of the Commission on the Limits of the Continental Shelf be conducted at informal open-ended meetings of the whole. To the extent possible, informal consultations and working groups would also be open-ended. The President indicated that the progress and/or the results of all informal negotiations, consultations and working groups, including proposals on pending items, would be reported back to the plenary.

B. Introductory statement by the representative of the Secretary-General

8. The representative of the Secretary-General, the Legal Counsel, introduced the draft initial budget for the International Tribunal for the Law of the Sea, stating that it would cover the period from August 1996 to December 1997, during which time the Tribunal would establish itself and would become operational. In preparing the document, the Secretariat had taken into account the criteria laid down by the second Meeting of States Parties regarding the budget, which had been reflected in document SPLOS/4. The principle of cost-effectiveness, which

was to be applied to all aspects of the work of the Tribunal and which was foremost among such criteria, was the underlying factor in the preparation of the document as a whole. In addition to the criteria referred to above, the Secretariat also took into account the working papers presented to the Preparatory Commission. 5/

9. The Legal Counsel further stated that the draft initial budget was based on an evaluation of relevant international experience, and in particular that of the International Court of Justice and recently established criminal tribunals under the aegis of the United Nations (i.e., the International Tribunal for the former Yugoslavia and the International Tribunal for Rwanda). Some of the conclusions reflected in the draft were: (a) that the judges would meet in executive sessions during the initial period under review; (b) that their meetings and organizational activities would require the services of a core staff; (c) that the start-up levels of the core staff could be kept lower than the final organizational levels might demand; (d) that inter-sessionally, when the judges were not meeting, the preparatory work of the Registry would continue; and (e) that support services would have to be available to the President, who would be present full-time at the seat, and to the other judges when they were in attendance.

10. The Legal Counsel also informed the Meeting of the three organizational steps that were contemplated in the draft, though the estimates provided did not cover the situation of an application being made to the Tribunal or of a request for an advisory opinion being submitted to the Seabed Disputes Chamber during the initial period covered by the budget. If such an eventuality occurred, the Tribunal would have to respond to it on an ad hoc basis and, assuming that the Tribunal would have adopted its provisional rules and would be prepared to exercise its adjudicative functions, the cost implications would have to be provided under special arrangements.

11. The Legal Counsel pointed out that the draft budget also provided estimates to meet the essential preparatory work to be carried out after the budget had been adopted, in March 1996, and before the judges were elected, on 1 August 1996. The estimates had been kept at a bare minimum.

12. Another important aspect of the budget for the Tribunal was the source of funding from which to meet the budget. The Legal Counsel stressed the importance of the funds being made available in time to meet the financial implications of the projected activities. He referred also to the need to take a decision as to the transitional arrangements from the services of the Secretariat of the United Nations to those of the Registry of the Tribunal. 6/

13. As regards the arrangements for the election of the members of the Commission on the Limits of the Continental Shelf, the Legal Counsel referred to document SPLOS/CRP.2, noting that the Convention required the initial election of the members of the Commission to be held as soon as possible, and in any case within 18 months after the date of entry into force of the Convention, which would expire on 16 May 1996. He referred to the decision taken by the first Meeting of States Parties whereby the election of the Members of the Tribunal had been postponed until 1 August 1996. The Secretariat was suggesting that a similar decision might be taken by the States Parties regarding the election of

the members of the Commission and that the proposed schedule for such nomination and election was contained in the above-mentioned document.

C. Draft protocol on the privileges and immunities of the Tribunal

14. The Meeting considered the draft protocol on the privileges and immunities of the Tribunal in informal consultations, working groups and the plenary. The draft protocol was reviewed article by article and informal suggestions and proposals were made by several delegations. Those proposals and suggestions were taken into account by the working group in revising the text. The revised text was circulated in advance to delegations with the proviso that the Secretariat would make the necessary editorial changes and distribute it in all languages in advance of the next Meeting of States Parties.

15. The form of the instrument was also discussed and it was agreed that it would be called an agreement subject to signature and ratification, and shall be opened to all States. It was also suggested that the Meeting might consider the submission of the draft agreement to the judges of the Tribunal for their views. Delegations would have the opportunity to review it further and decide on the procedure to be followed for its adoption.

D. Draft initial budget of the Tribunal

16. The draft initial budget was considered mainly in open-ended consultations and working groups, and conclusions were reached on several aspects of the budget. The estimates were revised and were informally made available to delegations. The Secretariat was requested to revise the draft initial budget on the basis of the revisions agreed to by delegations and to circulate it in advance of the next Meeting of States Parties, which would be required to adopt the initial budget.

17. The question of funding to cover preparatory work to be carried out by the Secretary-General after the budget is adopted in March 1996 and before the judges are elected on 1 August 1996 was extensively discussed. The Meeting decided that the preparatory work to be undertaken by the Secretary-General 7/ was part of his mandate under the Convention and that it was in accordance with the decision of the General Assembly. The Meeting therefore requested the Secretariat to seek a revision of its budget to cover the additional costs.

18. Certain proposals which were made by some delegations regarding aspects of the budget were discussed, but no conclusions were reached on those matters.

19. The President in his summary suggested that decisions on those proposals as well as the source of funding or financing of the budget and the transition from the services of the Secretariat of the United Nations to those of the Registry of the Tribunal should be taken at the next Meeting of States Parties. The Meeting agreed to those suggestions.

E. Election of the members of the Commission on the Limits of the Continental Shelf

20. It was agreed that the election of the members of the Commission would be postponed till March 1997, with the proviso that should any State which is already a Party to the Convention by 16 May 1996 be affected adversely in respect of its obligations under article 4 of annex II to the Convention as a consequence of the change in the date of the election, States Parties, at the request of such a State, would review the situation with a view to ameliorating the difficulty in respect of that obligation. 8/

F. Credentials Committee

21. Owing to lack of time, the Credentials Committee did not meet and it was decided that credentials would be considered at the next Meeting of States Parties.

G. Election of officers

22. The election of the remaining three Vice-Presidents was not held owing to lack of time. It was decided that this item also would be taken up at the next Meeting of States Parties.

H. Application for observer status

23. The President informed the Meeting that the Law of the Sea Institute, based in Hawaii, had applied for observer status at the Meeting of States Parties and that the Institute had complied with the criteria for an observer under rule 18 of the rules of procedure. The application was approved by the Meeting.

III. OTHER MATTERS

Schedule for future Meeting

24. The Meeting decided that it would reconvene in New York from 4 to 8 March 1996. It would consider and adopt the revised draft initial budget of the Tribunal and all other matters pertaining to the budget including the sources of funding. In addition, the following schedule for the Meetings of States Parties was agreed upon: from 6 to 10 May 1996, to consider organizational matters of the Tribunal; and from 29 July to 2 August 1996, for the election of the Members of the Tribunal.

Notes

1/ The previous two Meetings of States Parties were held on 21 and 22 November 1994 and from 15 to 19 May 1995.

2/ SPLOS/4, para. 37.

3/ SPLOS/2/Rev.3.

4/ Reproduced in LOS/PCN/152, vol. I, p. 115.

5/ LOS/PCN/SCN.4/WP.8 and Add.1 and 2, reproduced in LOS/PCN/152, vol. II, p. 260; and LOS/PCN/SCN.4/WP.16/Add.6, reproduced in LOS/PCN/152, vol. I, p. 150.

6/ See also General Assembly resolution 49/28, paras. 10, 11 and 15 (g).

7/ See SPLOS/WP.1, para. 34.

8/ Article 4 of annex II provides that, where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of the Convention for that State.